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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 1 May 2003 from the Permanent Representative of France to the United Nations addressed to the Chairman of the Committee

On behalf of my Government, I have the honour to transmit herewith the report submitted by France pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

The report describes the steps taken by France to implement the measures set out in paragraph 1 of resolution 1455 (2003). My Government welcomes the opportunity afforded Member States to present a comprehensive account of the practical steps they are taking to combat al-Qa`idah and the Taliban, a fight which is central to combating terrorism.

(*Signed*) Jean-Marc **de La Sablière**

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Annex to the letter dated 1 May 2003 from the Permanent Representative of France to the United Nations addressed to the Chairman of the Committee

Report submitted by France pursuant to Security Council resolution 1455 (2003) concerning sanctions against al-Qa`idah

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The threat from radical Islam, and thus from al-Qa`idah's sphere of influence, remains high in today's world and is not a short-term problem. Although conventional weapons are still the most likely to be used by terrorists, the biological and chemical threat is also a significant risk. Several operations carried out by specialized teams in France have shown that terrorist networks, both active and logistical, are still present in French territory:

- In November 2002 the authorities began dismantling the support structure, located in the Lyons region of France, of the Tunisian terrorist Nizan Naouar, who carried out the bombing of the synagogue in Djerba, Tunisia, on 11 April 2002 in collaboration with Khalid Cheik Mohammed, an operational leader with close ties to al-Qa`idah who was arrested in Pakistan on 3 March 2002;
- Between 16 and 24 December 2002, nine jihad supporters with close ties to al-Qa`idah were arrested in the Paris region while planning to carry out attacks using toxic agents in France.

Between November 2002 and 14 April 2003, 43 Islamic militants were arrested, of whom 22 were imprisoned.

These attempts to commit acts in French territory are in fact part of a broader international strategy adopted by the leaders of al-Qa`idah. This globalization of Islamic terrorism has forced the French security forces to become involved in investigations relating to French nationals or interests in other States.

Missions were undertaken to Karachi, Pakistan, following the attack on 8 May 2002 which caused the deaths of 11 French nationals employed by the French shipbuilder DCN (Direction des constructions navales), to Bali, Indonesia, where 202 people, including 4 French nationals, were killed when a nightclub was destroyed on 12 October 2002, and to Yemen following the attack on the French oil tanker *Limburg* on 6 October 2002.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

In the light of France's obligations arising out of its European Union membership, the Committee's list has been incorporated into the French legal system by means of several European Union legal measures, including:

- Council Common Position 2002/402/CFSP;
- Council Regulation (EC) No. 881/2002, published in the *Official Journal of the European Communities* on 29 May 2002 and modified by Council Regulation No. 561/2003, published in the *Official Journal* on 29 March 2003.

Every modification of the Committee's list is immediately incorporated into Community law, which has the direct force of law in France, through a Commission regulation.

All relevant government departments are required to implement the provisions of the aforementioned European Union legislative acts (for detailed information regarding implementation, see the other parts of the report).

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

The main problems encountered by the French administration in using the list relate to the lack of specific details on the individuals concerned (alias, date and place of birth, address, etc.); greater attention should be paid to this information, given the constant likelihood of problems posed by the similarities in the names of different individuals. A person cannot be identified if nothing but the family name is available. This becomes an insurmountable problem with certain names which are very common, such as, for example, Mohammad Nazar Maulavi, Mohammad Nik Maulavi, Wali Moahammad and Razaq Abdul Maulari.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, no individual whose name appears on the list has been identified in French territory.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

At the initiative of France, three entities have been included in the list: the Groupe combattant tunisien (GCT), the Groupe islamique combattant marocain (GICM) and Lajnat al Daawa al Islamiyah (LDI).

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

To date, no administrative or judicial proceedings have been initiated in France as the result of the inclusion in the list of any individual or entity.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

To date, no listed individual has been identified as a French national.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

This question has been answered in the reports submitted by France to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, particularly paragraphs 2 (a), 2 (b) and 2 (d). A document listing the changes that have been made to French legislation in the past year or so is annexed to this report in order to provide a complete and updated description of the anti-terrorist legislative framework; this description has already been provided to the Counter-Terrorism Committee.

Among the steps taken by France to prevent activities by members of al-Qa`idah, are several judicial proceedings that are taking place in French courts and relate to the dismantling of terrorist conspiracies having links to al-Qa`idah. The principle of secrecy in prosecution and investigation precludes any details being provided on these proceedings.

III. Financial and economic assets freeze

Under the sanctions regime (para. 4 (b) of resolution 1267 (1999) and paras. 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

Note: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

On 27 May 2002, pursuant to articles 60 and 301 of the Treaty of the European Communities, the European Union adopted Council Regulation (EC) No. 881/2002, incorporating Security Council resolution 1390 (2002) and implementing measures to freeze the assets of physical and legal persons having links to al-Qa`idah. This replaces Council Regulation (EC) 467/2001 of 6 March 2001, which was repealed. Fifteen Commission regulations have been adopted, listing 239 physical persons and 103 legal persons. Council Regulation (EC) 561/2003 of 27 March 2003 incorporated Security Council resolution 1452 (2002).

European Community regulations are the preferred means of implementing asset-freezing measures because they provide for legal consistency with European Union partners. At the national level, however, France can also use regulatory instruments, on the basis of the Act of 28 December 1966 concerning financial relations with foreign countries and articles L151-1 and L151-2 of the Monetary and Financial Code, in order to adopt restrictive measures against non-resident physical or legal persons included in the Consolidated List. In particular, transfers of financial assets to foreign countries by individuals or entities considered as terrorist are prohibited.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The answer to this question is contained in the reports of France to the Counter-Terrorism Committee (particularly para. 1 (a)).

Since terrorist acts are placed in the same category as organized crime, funds suspected of coming from acts of terrorism or intended for use in committing such acts can, as with instances of money-laundering, be declared suspicious.

Indeed, financial intelligence units (FIUs) such as TRACFIN (Traitement du renseignement et action contre les circuits financiers clandestins) have taken on a leading role in this mobilization. In all cases, the means available for pursuing money-launderers are also used to detect the financial assets of terrorist groups.

The network of FIUs, of which TRACFIN is a member, makes it easier to detect the activities of terrorist groups through their financial resources. International cooperation in this area is now well established; this is particularly true within the European Union on the basis of the Council decision of 17 October 2000 relating to means of cooperation among FIUs.

France also plays a very active role in the Financial Action Task Force on Money Laundering (FATF) which has not only produced its eight Special Recommendations on Terrorist Financing but seeks to extend its activities to combat the financing of terrorism.

TRACFIN is active in three areas.

It promotes awareness among financial partners (mainly banks and bureaux de change) of the absolute necessity of reporting any transaction which might serve to finance a terrorist group. Priority treatment is given to such reports. The task of TRACFIN is to:

- Collect information concerning domestic or international transactions which are generally conducted in cash and are economically unjustifiable; such transactions may involve funds sent to or from countries where terrorist groups are thought to be present;
- Verify that the individuals involved do not appear on specific United Nations lists;

- Take steps to ensure that the financial data submitted to prosecuting authorities are sufficiently complete.

TRACFIN engages in close international cooperation in order to effectively combat the financing of terrorism. This cooperation is both bilateral and multilateral, involving activities carried out by FATF, particularly through its Special Recommendations programme, and by the Egmont Group.

TRACFIN also seeks to enhance operational synergy with numerous institutions and collaborates with FINATER.

FINATER is an ad hoc coordinating group established by the Minister of Economic Affairs, Finance and Industry with a view to ensuring consistency in and enhancing the coordination of the activities carried out by French government entities responsible for implementing asset-freezing measures.

The task of FINATER is to promote improved cooperation among the various actors with expertise in the area of major trafficking activities, transparency of accounting, combating money-laundering and links among trafficking activities. FINATER is composed of representatives of six departments within the Ministry of Economic Affairs, Finance and Industry (the departments dealing with treasury, customs and indirect taxes, direct taxation, fiscal legislation, foreign economic relations and legal affairs), the financial intelligence unit TRACFIN and the Banking Commission. When necessary, meetings are also attended by representatives of supervisory authorities such as the Commission des opérations de bourse (Securities Exchange Commission), the Conseil des marchés financiers (Financial Markets Council) and the Commission de contrôle des assurances (Insurance Control Commission). The Director of the Treasury chairs the meetings and the Director-General of Customs and Indirect Taxes, who is the Secretary General of TRACFIN, serves as secretary.

Policing activities relating to the financing of terrorism are carried out by the Direction centrale de la police judiciaire (Central Directorate of Judicial Police) and its special unit on the financing of terrorism, which provides the interface with the other financial departments involved in combating the financing of terrorism.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Financial institutions are required to inform the Direction du trésor (Treasury Department) of any asset-freezing measures they have taken. If those institutions encounter difficulties in identifying the individuals or entities whose assets are to be frozen, the procedure requires that the problem be submitted initially to the Treasury Department, stating clearly the name of the person involved and including as much information as possible concerning the identity of the account holder. Following a rapid investigation, the Direction du trésor then responds in writing, ordering the freezing of the account where appropriate. Pending this response, financial establishments are requested to exercise increased surveillance and to delay the execution of any unusual transactions.

The provisions of Act No. 90-614 of 12 July 1990, concerning the involvement of financial institutions in combating money-laundering, have now been incorporated into article L563-1 of the Monetary and Financial Code; under these provisions, financial institutions are required to ascertain the identity of their contractual partners through the presentation of conclusive documentary proof. They must also obtain information as to the true identity of the persons benefiting from any transaction where they believe that the person requesting the transaction is not acting on his own behalf. Article 3 of Decree No. 91-160 of 13 February 1991, which implements the aforementioned Act, specifies that financial institutions are to retain the references or copies of the identity documents which have been presented.

The Banking Commission, the Insurance Control Commission, the Securities Exchange Commission and the Investment Banking Commission, in addition to their prudential tasks, are tasked with ensuring that financial institutions fulfil their obligations in terms of combating money-laundering and the financing of terrorism. When conducting on-site inspections, they verify that the references or copies of identity documents that have been presented have indeed been retained.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002).

A total of 30,198.22 euros has been frozen in France pursuant to Security Council resolution 1390 (2002).

On the basis of the regulation issued on 23 October 2002 by the Commission of the European Union, French financial-sector institutions have frozen two accounts totalling 2,835.90 euros belonging to the entity known as SEMONDE (Global Relief Foundation).

On the basis of the regulation issued on 27 February 2003 by the Commission of the European Union, French financial-sector institutions have prevented an amount of 27,362.32 euros from being made available to Lajnat al Daawa al Islamiyah (LDI).

The information (surname, first name, amount of funds) concerning accounts frozen under Community regulations is transmitted to the European Commission for information.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

At this stage, no assets have been released in France pursuant to United Nations Security Council resolution 1452 (2002).

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description

of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.

Article 2 of the regulation of 27 May 2002 provides that all funds and economic resources belonging to, in the possession of or held by natural or legal persons, groups or entities designated by the Sanctions Committee shall be frozen. No funds must be made available either directly or indirectly, or used for the benefit of the natural or legal persons listed. Good practice in the area of freezing of financial assets consists of the freezing of accounts in order to dry up sources of financing for the persons listed rather than in the closing of bank accounts or the cancelling of insurance contracts.

- As soon as a Community regulation or national decree is adopted, Treasury officials immediately inform the supervisory authorities of the French financial sector (Banking Commission Secretariat, the Insurance Control Commission, the Financial Markets Council and the Securities Exchange Commission), professional representatives of banks and insurance companies (the French Banking Federation and the French Federation of Insurance Companies). The texts are also posted on the Internet sites of the Ministry of Economic Affairs, Finance and Industry (www.minefi.gouv.fr, under the heading "International financial sanctions").

The National Directorate of Information and Customs Investigation (DNRED), which has exclusive competence in this area within the customs administration, conducts investigations on the basis of the results of interrogations of FICOBA (the national bank account database) which are requested from the National Office for Tax Investigations.

As for monitoring the effectiveness of measures to freeze assets and prosecuting the failure to observe them, customs agents have since 1945 been authorized to seek out, verify and prosecute violations of the legislation governing financial relations with foreign countries. The freezing of assets covered by this legislation can therefore be monitored by customs agents based on the powers and litigation provisions contained in the Customs Code.

In addition to the power to search individuals, vehicles and merchandise, customs agents can conduct residential searches (art. 64 of the Customs Code) and can seize documents on the basis of:

- Article 65 of the Customs Code — *general right of communication of customs agents* — which allows them to order the surrender of "papers and documents of any kind relating to the operations of interest to the service from all natural or legal persons directly involved in regular or irregular transactions falling under the jurisdiction of the customs service".
- Article 152.3 of the Monetary and Financial Code — *right of communication of the tax administration* — which authorizes the requesting from credit and other establishments of "the date, amount of sums transferred abroad, the identity of the sender and recipient and the accounts involved in France and abroad. These provisions apply also to transactions conducted on behalf of such persons through the accounts of non-residents."

- With regard to the transboundary movement of funds, securities and stocks, since 1 January 1990, any natural person who transfers funds, securities and

stocks valued at 7,600 euros or more between France and a foreign country must file a declaration with the customs service (art. 464 of the Customs Code). Funds, securities or stocks that must be declared are cash, cheques, endorsable credits of any kind and gold or silver ingots or coins having an official market value.

Failure to meet this requirement constitutes an offence punishable by confiscation of the funds in question or, when such funds cannot be seized, of an equivalent sum and the payment of a fine of at least one quarter and not exceeding the full amount of the transaction incurring the offence (art. 465 of the Customs Code).

The usefulness of this obligation to declare in the context of a comprehensive and integrated approach to combating the financing of terrorism is supported by:

- The scope of the transboundary movements it reveals. During 2002, 1,784 instances of failure to declare funds, securities or stocks were discovered by the customs service, amounting to 233 million euros, or an increase of nearly 27.2 per cent over the previous year. During that same period, travellers made 25,147 voluntary declarations, representing a total of 1.28 million euros;
- The discovery that terrorist networks resort to "micro-financing" derived in particular from the collection of money or donations which preferably move through financial networks outside the banking system.

The customs administration is responsible for policing manual foreign exchange agencies on behalf of the Banking Commission. On the basis of an annual monitoring plan devised in cooperation with the Banking Commission and TRACFIN, the National Directorate of Information and Customs Investigation conducts the monitoring.

With regard to monitoring of gold, precious stones and other such articles, the law on funds, securities and stocks applies also to monetary gold (ingots and coins) and silver coins. The law has not been extended to other valuables of this type because they are considered merchandise subject to customs regulations like other types of merchandise. Import or export of such merchandise can be monitored by customs because it is subject to a customs declaration.

- Under article L511-5 of the Monetary and Financial Code, only legal persons registered as credit establishments can conduct banking operations (receipt of funds from the public, credit transactions and providing clients or management with the means of payment). Failure to observe these provisions is punishable under article L571-3 of the Monetary and Financial Code, which provides for a penalty of three years' imprisonment and a fine of 375,000 euros.

Informal banking activities are thus illegal in France. The implementation of the FATF special recommendation concerning informal banking networks does not require supplementary legislation.

In dealing with the reports of suspicious transactions it gathers, TRACFIN occasionally learns of financial transactions conducted by or intended for associations headed by foreign nationals or French citizens having close ties to foreign groups. Its analysis of these descriptions results in the preliminary monitoring of the actual use of the funds in question which makes it possible to detect possible diversion to benefit terrorist groups. If such cases are brought to

court, any police investigations will lead to further financial expertise being brought to bear in the matter.

IV. Travel ban

Under the sanctions regime, all States shall take steps to prevent the entry into or transit through their territories of listed individuals (para. 1 of resolution 1455 (2003), para. 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

France has "denial of entry into the territory" forms that serve to alert the administrative authorities, consular services or border police to those foreign nationals whose presence in French territory constitutes a threat to public order. This form ensures that such persons will not be issued a visa or that their entry into France will be refused. These administrative measures cannot be applied against third parties. However, before any request for the filing of a "denial of entry" form, which can only be individual in nature, can be made, it must be certified that the subject is not French or involved in judicial proceedings that justify his or her entry or transit.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Individuals for whom there is sufficient identifying information are listed on "denial of entry" forms. For many such individuals, however, adequate descriptions are not available.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?

The national database listing individuals to be excluded or monitored is updated continuously. It is computerized and can be consulted at all points of entry into French territory.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date, no individual on the list has been stopped at a French border post.

19. Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?

With regard to the implementation of measures intended to deny access to national territory by persons appearing on the list of individuals linked to the Taliban and the al-Qa'idah network, national measures have been taken pursuant to resolution 1455 (2003) to strengthen controls in the ministerial departments concerned and in the consular network.

The Committee's list was first processed manually, as it could not be entered into the existing computer system because of incomplete data on the listed individuals (unknown dates of birth, nationality not specified, etc.); a new and more effective information management system has now been set up for the use of posts abroad, and it is now possible to create a nominal file, even with incomplete data. This has made it possible to incorporate the list into a file used by the Postal Service that is systematically consulted for any visa application. If the applicant is found on this list, the visa will be denied and the relevant ministries informed without delay.

Thus far, no person contained on the list established by the Committee established pursuant to resolution 1267 (1999) has applied for a visa.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals and entities associated with them, from their territories or by the nationals outside their territories, of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

This question is answered in the reports of France to the Counter-Terrorism Committee (in particular the reply to paragraph 2 (a)). France is particularly concerned by the risk of diversion of sensitive weapons, technology and goods to the benefit of terrorists, either directly by groups taking advantage of organized crime networks or through State-sponsored terrorism. It believes that depriving terrorists of all support and freedom of action help to diminish their capabilities. Monitoring exports of weapons and sensitive technology is part of that effort.

In monitoring exports, France fully observes the embargo measures ordered by the international community against al-Qa'idah and the Taliban.

France is especially vigilant because it seeks to avoid any possible diversion of weapons to terrorists. At the national level, it has a vast arsenal of legislation, regulations and administrative measures to draw on. It is chiefly through rigorous export control that this arsenal is applied.

The general legal regime governing arms exports, in effect since 1939, is prohibition. Exports of war materiel, which constitute an exception to the rule, are subject to monitoring in two successive phases:

- Prior to export, manufacturers must obtain the authorization of the French Government in the negotiation and sale stage. The decision is made by the Secretary-General for National Defence, on behalf of the Prime Minister, on

the advice of a specialized inter-ministerial commission (an inter-ministerial review commission for the export of war materiel) composed in particular of representatives of the Ministries of Foreign Affairs, Defence and Finance, who have input into the discussions;

– At the time of the physical export of the materiel, through the issuance by the customs service of an authorization for the export of war materiel (AEMG) subject to the assent of the Prime Minister, the Ministry of Foreign Affairs and the Ministry of Defence.

Moreover, the views of the French Government on the appropriateness of a transfer reflect the criteria of the European Code of Conduct for Arms Exports of 8 June 1998. Criterion Six, for example, addresses the "behaviour of the buyer country with regard to the international community and in particular, its attitude towards terrorism, the nature of its alliances and respect for international law". France thus takes into account any previous activity by the buyer country in the area of "support or encouragement to terrorism." Criteria One (non-proliferation), Three (existence of tensions or armed conflicts in the country of final destination), Five (security of member States and friendly countries) and Seven (risk of diversion or re-export) may also be mentioned here.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The answer to this question is contained in the reports of France to the Counter-Terrorism Committee (in paragraph 2 (a) in particular).

French law severely punishes violations of arms regulations; the sale and circulation of weapons are regulated.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The actions of brokers may in some cases play a part in the violation of an embargo, often for the benefit of terrorist organizations. Brokerage activities are difficult to control because they are not always of a formal nature and may take place simultaneously or successively in different countries. The international community is studying ways and means of controlling such activities, and France has taken part in the discussions on this subject, both at the international level and within the European Union.

France is aware of the stakes involved; accordingly, in order to gain full control over such activities, the Government adopted, on 3 January, a decree regulating brokerage activities which requires brokers to obtain government authorization in order to operate.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

In order to prevent exported weapons from being diverted to terrorists, France requires that the purchasing State undertake not to re-export equipment it has purchased. Under this clause, the purchaser undertakes not to sell, lend or convey for any reason, whether or not in return for money and on either a temporary or a permanent basis, to any third party, without the prior written consent of the French Government, the materiel and spare parts covered by the contract, including materiel and spare parts delivered in the context of after-sales service, documentation, instructions and any other information related to the contract. The purchasing Government is required to sign this clause.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

As indicated in its reports to the Counter-Terrorism Committee, particularly in its technical assistance repertoire, France would be willing to provide assistance to other States.

The global threat of terrorism requires a global response and global cooperation. Technical assistance is therefore a necessary complement to the normative action taken by the international community under the auspices of the United Nations. It also underscores France's political belief in the mutual interest and shared responsibility of nations in the face of a common enemy that seeks to seal off any possibility of understanding between the countries of the world and to widen the gap between rich and poor countries.

In 2002, France provided technical assistance in the area of counter-terrorism to 77 countries through a total of 204 interventions (training, auditing, evaluation and so forth) in the various areas of cooperation identified in resolution 1373 (2001): police and law enforcement; airport security; customs legislation and border surveillance; laws against the financing of terrorism; implementation, legislation and practice in the area of immigration law; and anti-terrorism laws.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

The sanctions regime can be implemented effectively only if the targeted individuals can be identified accurately and unequivocally. It is therefore essential to have access to information that make it possible to identify an individual (alias, date of birth, place of birth, address and nationality).

26. Please include any additional information you believe pertinent.

Appendix

Changes in French anti-terrorist legislation since 11 September 2001

I. **Basic legislation** (arts. 421-1 to 422-5 of the Criminal Code)

France has gradually adopted a number of specific anti-terrorist laws, principal among which is the Act of 9 September 1986, which has been regularly updated. Since the attacks of 11 September 2001, the Acts of 15 November 2001 and 9 September 2002 have been introduced in order to reinforce basic laws and the rules of procedure.

The law defines an act of terrorism as having two components:

- First, the existence of a crime or offence as defined in the Criminal Code. Only certain crimes and offences are concerned; these are defined in a closed list established by the legislature (art. 421-1 et seq. of the Criminal Code);
- Secondly, the crimes or offences set out in the closed list must relate to an individual or collective enterprise conceived to cause serious disruption of the public order through intimidation or terror, which is characteristic of the terrorist act.

Such acts of terrorism are punishable by more serious penalties (arts. 421-423 et seq. of the Criminal Code).

At present, the list includes:

- Deliberate attacks on an individual's life or personal safety; the theft, hijacking and diversion of an aircraft, vessel or any other means of transport;
- Robbery, extortion, destruction, degradation and damage, as well as certain computer-related offences;
- Offences involving combat units or underground movements;
- The manufacture or possession of machines, lethal devices or explosives;
- The manufacture, possession, storage, acquisition and transfer of biological or toxic weapons;
- The manufacture, sale, import or export of explosive substances;
- The purchase, possession, transport or illegal carrying of explosive substances or devices made with such substances;
- Violations of the laws governing weapons and ammunition of the first and fourth categories;
- Receiving the product of one of the aforementioned offences;
- Offences involving money-laundering and insider-trading offences (Act of 15 November 2001);

In addition, the following are defined in specific articles of the Criminal Code:

- Since 1994, an act of ecological terrorism (the introduction into the atmosphere, the soil, the subsoil or water, including landlocked water, of a substance that may endanger human or animal health or the natural

environment) (art. 421-2 of the Criminal Code). Since the adoption of the Act of 9 September 2002, this offence has been punishable by 20 years' imprisonment and a fine of 350,000 euros, and by life imprisonment when the offence leads to the death of one or more persons (art. 421-4 of the Criminal Code);

- Since 1996, terrorist criminal conspiracy (participation in a formal group or agreement established with a view to the preparation, characterized by one or several material facts, of one of the aforementioned terrorist acts) (art. 421-2-1 of the Criminal Code);
- Since the Act of 15 November 2001, the act of financing a terrorist enterprise, which directly incorporates the text of the United Nations Convention for the Suppression of the Financing of Terrorism of 10 January 2000 (art. 421-2-2 of the Criminal Code). An additional penalty has also been established, providing for the confiscation of all of the terrorist offender's assets and the allocation of assets seized as a result of sentencing to the terrorist acts guarantee fund (arts. 422-6 and 422-7 of the Criminal Code);
- Since the Domestic Security Act of 18 March 2003, "living off of terrorism", defined in article 421-2-3 of the Criminal Code as the inability to prove the possession of sufficient resources to justify one's lifestyle, while maintaining habitual relations with one or more persons involved in one or more of the acts described in articles 421-1 and 421-2-2. This offence is punishable by seven years' imprisonment and a fine of 100,000 euros.

II. **Rules of procedure** (arts. 706-16 to 706-25-1 of the Criminal Code)

Terrorist offences are dealt with in accordance with specific rules of procedure, which are consistent with constitutional and international law:

- Centralization of legal proceedings, investigations and sentencing at the Paris Court of Major Jurisdiction;
- Sentencing of terrorist crimes by a specially established court composed of professional magistrates;
- Maximum length of policy custody extended to 96 hours;
- Right to consult a lawyer deferred to the seventy-second hour of police custody;
- Right to conduct searches during the preliminary investigation phase without the consent of those being searched, by special authorization;
- Possibility of conducting night searches, by special authorization (Act of 30 December 1996);
- Existence of a mechanism for those who "repent" (exemption from sentencing for terrorists who change their minds and assist in the prevention of a terrorist act, halving of sentences for terrorists who help prevent the criminal acts in question or prevent the offence from causing loss of life);
- Extension of the deadline for instituting State legal proceedings and of sentences: 30 years for crimes, 20 years for offences (art. 706-25 of the Code of Criminal Procedure, Act of 8 February 1995);

- Extension of the maximum length of pre-trial detention for the offence of criminal conspiracy related to a terrorist enterprise to three years (art. 706-24-3 of the Code of Criminal Procedure, Act of 9 September 2002).

The Act of 15 November 2001 introduced:

- Authorization of vehicle searches (art. 78-2-2 of the Code of Criminal Procedure);
- Searches, house inspections and confiscation of evidence during preliminary investigations, without the consent of the owner of the premises, once authorization indicating grounds has been issued by the visiting magistrate (art. 367 of the Code of Criminal Procedure);
- The use during proceedings of audio-visual telecommunications tools and recording devices (art. 706-71 of the Code of Criminal Procedure);
- Anonymous hearing of witnesses (arts. 706-57 to 706-63 of the Code of Criminal Procedure). Since the Act of 9 September 2002, recourse to such hearings is possible in cases involving major crimes or minor crimes punishable by a sentence of at least three years (previously five years)
- A mechanism for the freezing of assets (art. 706-24-2 of the Code of Criminal Procedure),
- Recourse to State technical resources subject to national defence secrecy for the purpose of deciphering a coded message (art. 230 of the Code of Criminal Procedure);
- Competence of the French courts to try acts of a terrorist nature covered by the Convention of 10 January 2000 where the constituent elements of the offence are partially committed or carried out in national territory (art. 689-10 of the Code of Criminal Procedure).

The Act of 29 November 2001 authorized the ratification by France of the International Convention for the Suppression of the Financing of Terrorism, which was adopted by the United Nations General Assembly on 10 January 2000 and entered into force on 10 April 2002.

Lastly, the Act of 9 September 2002 created article 706-24-3 of the Code of Criminal Procedure, which increases to three years the maximum duration of pre-trial detention in cases involving the crime of criminal association related to a terrorist enterprise.

The Act of 9 September 2002 also increased the penalty for the crime of ecological terrorism (created by the 1994 Act) to 20 years' imprisonment and a fine of 350,000 euros, and, when it has occasioned the death of one or more persons (art. 421-4 of the Criminal Code), to life imprisonment and a fine of 750,000 euros. Ecological terrorism refers to the introduction into the atmosphere, soil, subsoil, or water, including landlocked water, of a substance that may endanger human or animal health or the natural environment.

Lastly, the Act of 9 September 2002 reduced to three years the threshold for offences under which a trial allowing for the anonymous hearing of witnesses may be held (arts. 706-57 to 706-63 of the Code of Criminal Procedure).

The Domestic Security Act of 18 March 2003 introduced the concept of "living off of terrorism", which is defined in article 421-2-3 of the Criminal Code as the inability to prove resources corresponding to one's lifestyle while maintaining habitual relations with one or more persons involved in one or more of the acts referred to in articles 421-1 and 421-2-2. This offence is punishable by seven years' imprisonment and a fine of 100,000 euros.